



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2021-0118]

Commercial Driver's License Standards: Application for Exemption; Werner Enterprises, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that Werner Enterprises, Inc. (Werner) has applied for an exemption to allow commercial learner's permit (CLP) holders who have successfully passed the commercial driver's license (CDL) skills test to be able to drive a commercial motor vehicle (CMV) without having a CDL holder seated beside them in the CMV. The Agency requests public comment on the exemption application.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA-2021-0118 by any of the following methods:

- **Federal eRulemaking Portal:** www.regulations.gov. See the **Public Participation and Request for Comments** section below for further information.
- **Mail:** Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery or Courier:** West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- **Fax:** 1-202-493-2251

Each submission must include the Agency name and the docket number for this notice (FMCSA-2021-0118). Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the **Privacy Act** heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its exemptions process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; (202-366-4225); MCPSD@dot.gov. If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2021-0118), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to www.regulations.gov and put the docket number, “FMCSA-2021-0118” in the “Search” box, and click “Search.” When the new screen appears, click on “Documents” button, then click “Comment” button associated with the latest notice posted. Another screen will appear, insert the required information. Choose whether you are submitting your comment as an individual, an organization, or anonymous. Click “Submit Comment.”

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the *Federal Register* (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the *Federal Register* (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulation Requirements

Under 49 CFR 383.25(a)(1) a CLP holder must be accompanied at all times by the holder of a valid CDL who has the proper CDL group and endorsement(s) necessary to operate the CMV. The CDL holder must at all times be physically present in the front seat of the vehicle next to the CLP holder while operating a CMV on public roads or highways and must have the CLP holder under observation and direct supervision.

Applicant's Request

Werner requests the exemption to allow CLP holders who have successfully passed a CDL skills test and are thus eligible to receive a CDL, be able to drive without having a CDL holder seated beside them in the vehicle. Werner, however, indicates in their exemption request that the CDL holder will remain in the vehicle at all times while the CLP holder is driving – just not in the front seat. Werner contends that an exemption from this regulation will benefit Werner and the trucking industry in three ways: improving efficiency of freight operations by maximizing driver employment during an historic driver shortage; creating immediate employment and compensation opportunities to qualified drivers; and improving the overall safety of the new driver experience.

Werner believes it will face a significant burden in all three areas if this exemption is not granted.

Werner asserts that 49 CFR § 383.25(a)(1) has created a significant burden on its operations. Prior to the implementation of the regulation, a new driver's state of domicile issued temporary CDLs to drivers who passed the CDL skills test. The temporary CDL made it possible for Werner to place the new driver as "on duty" and route him or her to the State of domicile to obtain a CDL, and without entering a second driver into an "on duty" status, thus allowing productive freight movement for Werner and compensation for the new driver. A copy of the exemption application is in the docket referenced at the beginning of this notice.

IV. Equivalent Level of Safety

Werner believes that by applying the exemption only to drivers who have passed the CDL skills test, hold a CLP, and operate the CMV under supervision of a CDL holder who is somewhere in the vehicle, an equivalent level of safety will likely be achieved.

Werner believes that there is no difference between the CLP holders who have passed the CDL skills test and other truck drivers on the road. In fact, Werner notes that by allowing a CLP holder who has passed the CDL skills test out of State to drive *en route* to their State of domicile with a CDL holder present in the vehicle, safety will be improved over current regulations, which allow a new CDL holder to drive unsupervised immediately after receiving his or her CDL documentation. Werner will ensure this level of safety by maintaining proper, up-to-date records for all drivers in possession of a CLP who have passed the CDL skills test.

V. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Werner's application for an exemption from 49 CFR § 383.25(a)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be

available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,
Associate Administrator for Policy.

[FR Doc. 2021-17690 Filed: 8/17/2021 8:45 am; Publication Date: 8/18/2021]